

**CITY OF NEWARK
DELAWARE**

**PLANNING COMMISSION
MEETING**

October 2, 2012

7:00 p.m.

Present at the 7:00 p.m. meeting were:

Chairman: James Bowman

Commissioners Present: Patricia Brill
Peggy Brown
Bob Cronin
Angela Dressel
Andy Hegedus
Edgar Johnson

Staff Present: Maureen Feeney Roser, Planning and Development Director
David Athey, Councilman, District 4
Mike Fortner, Planner

Chairman James Bowman called the Planning Commission meeting to order at 7:00 p.m. The first order of business was to introduce and welcome the new Planning Commissioners Bob Cronin and Andy Hegedus. Ms. Feeney Roser thanked the new commissioners for their willingness to serve on the commission.

1. THE MINUTES OF THE JULY 10, 2012 PLANNING COMMISSION MEETING.

Ms. Pat Brill: On page 19, the minutes should read “lopped” not lobbed.

Mr. Bob Cronin: I have one that might be in order. On page 9 under the Parks Department comments, the second bullet from the bottom, Wilson Road should be “Winslow Road.”

MOTION BY DRESSEL, SECONDED BY JOHNSON, THE MINUTES OF THE JULY 10, 2012 PLANNING COMMISSION MEETING WERE ACCEPTED AS CORRECTED.

2. REVIEW AND CONSIDERATION OF AMENDMENTS TO THE ZONING CODE TO ESTABLISH A NEW ADULT COMMUNITY 80/20 ZONING DISTRICT.

Ms. Feeney Roser summarized the Planning and Development Department Report that reads as follows:

“During discussion at the September 10, 2012 City Council meeting, the question was raised as to why the City does not permit 20% occupancy by those under age 55 in our adult community (AC) zoning category. Under Federal Law, zoning districts may be limited to “housing for older persons” without running afoul of the general ban on familial status discrimination as long as at least 80% of the units are occupied by at least one person who is 55 years of age or older. (Source: 42U.S.C.A.~3607(b)(2)). However, the City’s definition of “dwelling, adult community apartment” (Section 32-49(a)(36.1) requires that all units, not just 80%, be occupied by persons 55 or older, with certain limited exceptions such as spouse or caregiver. The reason for this 100% requirement is that, when the ordinance was originally adopted establishing the adult community zoning

in 1991, it was believed that if we permitted 20% under 55 occupancy, the “non-senior” residents would likely be students, thereby causing tension and defeating the purpose of an over 55 community. Therefore, the City adopted the 100% 55 or older occupancy requirement.

Since that time, market conditions have affected the success of some 55+ communities in Newark, and, as you know, in certain instances, several developers of these communities have requested rezonings. It has, therefore, been suggested that allowing 20% occupancy by persons under the age of 55 might improve sales. Rather than amending our definition of adult community to allow mixed occupancy, staff suggests that it would be more helpful to create a new zoning category to be called Adult Community 80/20 which, if approved, would allow 20% occupancy by people under the age of 55 years. Therefore, if the market was more palatable for this type of mixed offering, we would have a category already in place should new property be annexed or considered for development and the property owner is desirous of this type of residential mix. It is important to note that adding this new category will not affect existing AC zoned communities in Newark in any way other than to provide an additional zoning category for which developers may apply for zoning or rezoning.

Background

On March 25, 1991, the City of Newark City Council established a new zoning category designated as AC (adult community). At this point, 21 years later, 61.5105 acres or 1.54% of the City’s total 4,217.46 acres are zoned AC.

Adult Community 80/20 (AC 80/20) Zoning

As the regulations governing the AC zoning category have been found to be satisfactory to staff and the community, it will not be necessary, therefore, to make significant changes in the requirements for a new zoning district beyond adding a new definition for dwelling units in the AC 80/20 and, adjusting the off-street parking requirements to reflect the needs of mixed occupancy, as well as adding the AC 80/20 zoning category to other sections of the Code applicable. Therefore, the necessary amendments for Chapter 32, Zoning to establish another adult community zoning district (Section 32-13.2) are provided below. It is important to note that the new district is essentially identical to the existing AC zoning category without the 100% occupancy requirement.

1. Amend Section 32-4(a) by adding a new subsection (36.2) to read:

“Dwelling, Adult Community Apartment 80/20: A multi-family garden or high-rise apartment dwelling with occupancy restricted to 80% of persons 55 years of age or older.”

2. Amend Section 32-4(a)(50), Garden Apartments, Definitions, by adding the words:

“Section 32-13.2,” [Simply adding the section number to the definitions] to read:

“A group of multi-family dwellings, up to and including three stories in height, designed for rental or condominium ownership of individual housekeeping units, having common open spaces, and designed in accordance with the special requirements for such dwellings as set forth in Article IV, Section 32-11, Section 32-13.1 and Section 32-13.2 of this chapter.”

3. Amend Section 32-4(a)(54); High Rise Apartment, Definitions, by adding the words:

“Section 32-13.2,” [Simply adding the section number to the definition] to read:

“A multi-family dwelling, over three stories in height with elevator service, designed for rental or condominium ownership of the individual housekeeping units and

designed in accordance with the special requirements set forth in Article IV, Section 32-12, Section 32-13.1 and Section 32-13.2 of this chapter.”

4. Amend Section 32-5, Classes of Districts, by adding a new district as follows:

	<u>Designation</u>	<u>Description</u>
AC 80/20	Residential	(Adult Community, mixed)

5. Amend Article IV, Use in Area Regulations for Residential Districts by adding a new section 32-13.2, AC 80/20 District (adult community, mixed) as follows:

“(a) In an AC 80/20 district, no building or premises shall be used and no building shall be erected or altered which is arranged, intended, or designed to be used, except for one or more of the following uses:

- (1) Adult community 80/20 garden apartment dwellings subject to the following special provisions:

(1) *Number of dwelling units per gross acre.* The maximum number of dwelling units per gross acre shall not exceed nine.

a. *Lot coverage.* The maximum lot coverage for any lot developed for adult community garden apartments shall be 20%.

b. *Distance between buildings or groups of attached buildings.* No part of any building, or groups of attached buildings, shall be nearer than 25 feet to any other building, or groups of attached buildings, except that no portion of the front or rear of any buildings, or groups of attached buildings, shall be nearer than 50 feet to the front and rear of another building or groups of attached buildings.

c. *Street frontage.* The lot shall have at least 50 feet frontage along a public street.

d. *Minimum lot size.* One acre, with 4,840 square feet per dwelling unit.

e. *Open area.* At least 40% of the lot shall be devoted to open area.

f. *Parking and loading spaces.* All uncovered parking and loading spaces shall be located at least 10 feet from all abutting perimeter streets and property lines. The parking bays adjacent to interior private streets are permitted.

g. *Height of buildings.* The height of an adult community 80/20 garden apartment shall not exceed three stories with 35 feet, except one additional story or 46 feet shall be permitted if 60% of a floor, or a below-grade garage, within the building is utilized for off-street parking purposes.

h. *Accessory uses.* In addition to the accessory uses as specified in Section 32-13.2(4), the following accessory uses constructed

and managed as part of an adult community apartment building or buildings shall be permitted to provide on-site goods and services to adult community residents and their guests, but shall not be for the general public. No exterior signs shall be permitted:

1. Retail food store not to exceed 2,500 square feet.
2. Retail store not to exceed 2,500 square feet.
3. Barbers and beauty shops not to exceed 2,500 square feet.

- i. *Documentation.* Prior to the issuance of any certificates of occupancy for an adult community, appropriate deed restrictions limiting the use of the property to adult community 80/20 apartment dwellers, as defined in this chapter, and clear policies and procedures on maintaining at least 80% occupancy by persons 55 years of age or older, shall be provided by the applicant, reviewed for compliance by the city solicitor, and recorded in the Office of the Recorder of Deeds in and for New Castle County by the city secretary.

(2) Nursing home, rest home, or home for the aged; provided that:

- a. The minimum lot area required for each four, or remainder over the multiple of four, resident patients or resident guests shall be 2,725 square feet; provided, however, that no lot contains less than 10,000 square feet.
- b. The minimum lot width shall be 100 feet.

(3) Hospital.

(4) Accessory uses and accessory buildings customarily incidental to the uses permitted in this section and located on the same lot, including a private garage as defined and limited in Article II and subject to the special regulations of Article XV of this chapter, excluding semi-trailers and similar vehicles for storage of property.

(5) Municipal tower, water storage tank, water reservoir, water pumping station, and water treatment plant.

(6) Park, playground, athletic field, recreation building, and community center operated on a noncommercial basis for recreation purposes.

(7) Municipal sewerage pumping stations and sewers.

(8) Right-of-way, street.

(9) Temporary building, temporary real estate or construction office, and temporary storage of materials provided that use is located on a lot where construction is taking place or on a lot adjacent or part of the development site thereto, and that such temporary use is to be terminated upon completion of construction.

(10) Utility transmission and distribution lines.

(11) Public transportation bus or transit stops for the loading and unloading of passengers.

(12) Physicians' and dentists' offices, with the maximum allowable number of professional practitioners limited to six with a minimum of 6,250 square feet of lot area per practitioner. "Practitioner" meaning each individual physician and/or dentist using the building, whether full or part time.

(b) The following uses require special use permits as provided in Article XX, Section 32-78 of this chapter:

(1) Adult community 80/20 high-rise apartment dwellings, subject to the following special provisions:

- a. *The number of dwelling units per gross acre.* The maximum number of dwelling units per gross acre shall not exceed 50.
- b. *Lot coverage.* The maximum lot coverage of any lot developed for adult community high-rise apartments shall be 20%.
- c. *Distance between buildings or groups of attached buildings.* No part of any building, or group of attached buildings, shall be nearer than 25 feet to any other building or group of attached buildings, except that no portion of the front or rear of any buildings, or groups of attached buildings, shall be nearer than 50 feet to the front and rear of another building or groups of attached buildings. No more than three buildings shall be attached to one another.
- d. *Street frontage.* The lot shall have at least 50 feet frontage along the public street.
- e. *Minimum lot size.* Two acres, with 870 square feet of lot area per dwelling unit.
- f. *Open area.* At least 30% of the lot shall be devoted to open area.
- g. *Height of buildings.* Except as specified in Article XVI, Section 32-56.2(c)(2) of this chapter, a multifamily dwelling in an AC 80/20 district may be erected to a height not exceeding seven stories or 80 feet. The maximum height limit may be exceeded up to 10 stories or 110 feet under the following special conditions:
 1. Within the minimum required setback, an additional floor may be permitted for each floor if 60% of the floor is used for off-street parking purposes and/or building mechanical equipment; provided, that no more than three additional floors may be allowed, and that the height of such additional floors shall not exceed an average of 11 feet each.

2. Within the minimum required setback and yard areas, an additional floor may be permitted for each floor if 60% of the floor space is used for as an exhibition, lobby, galley, recreational area, terrace, or related facility for use of the residents and their guests; provided that no more than three additional floors may be allowed, and the height of such additional floors shall not exceed an average of 11 feet each.

An exhibition, lobby, gallery, recreational park, or related facility, or terrace may consist of:

- (A) A fully enclosed area which is intended for the use of the building occupants and contains sitting, lounge, exhibition area, retail stores, retail food stores, beauty and barber shops, and physicians or dentists offices;
 - (B) An enclosed or partially enclosed area which is primarily intended to act as a transition area between residential uses and either parking and/or building mechanical equipment uses and contains either sitting or lounge areas;
 - (C) An enclosed or partially enclosed area which is intended for the use of the building occupants and is devoted primarily to recreational activities; or
 - (D) An open outdoor area either an upper floor located on or adjacent to the ground floor accessible to the building(s) occupants and containing sitting and/or landscaped recreational areas.
- h. *Accessory uses.* In addition to accessory uses as specified in Section 32-13.2(a)(4) the following accessory uses, constructed and managed as part of an adult community 80/20 high-rise apartment building or buildings shall be permitted to provide on-site goods and services to adult community residents and their guests, but shall not be for the general public. No exterior signs shall be permitted:
 1. Retail food store not to exceed 2,500 square feet.
 2. Retail store not to exceed 2,500 square feet.
 3. Barbers and beauty shops not to exceed 2,500 square feet.
 - i. *Documentation.* Prior to the issuance of any building permits for an adult community 80/20 appropriate deed restrictions limiting the use of the property to adult community 80/20 apartment dwellings as defined in this chapter, and clear policies and procedures on maintaining at least 80% occupancy

by persons 55 years of age or older, shall be prepared by the applicant, reviewed for compliance by the city solicitor, and recorded in the Office of the Recorder of Deeds in and for New Castle County by the city secretary.

- (2) Substation, electric, and gas facilities, provided that no storage of materials and trucks are allowed. No repair facilities are allowed except within completely enclosed buildings.
- (3) Police and fire stations, library, museum, and art gallery.
- (4) Public transportation bus or transit shelters may be permitted subject to the review by the planning department as to design and location.
- (5) Public transportation bus or transit off-street parking facilities may be permitted for use by of a public transportation service subject to review by the planning department.
- (6) Swimming club, private (nonprofit).

(c) Area regulations.

- (1) *Minimum lot area.* Except as specified in Article XVI, Section 32-56.2(a) of this chapter, the minimum lot area for any permitted use, together with accessory buildings, shall be 6,250 square feet, except for those uses otherwise regulated which will be subject to the area regulations specified for that use.
- (2) *Maximum lot coverage.* The maximum lot coverage for any building, exclusive of accessory buildings, shall be 30%, except for those uses otherwise regulated which shall be subject to the area regulations specified for that use.
- (3) *Minimum lot width.* Except as specified in Article XVI, Section 32-56.2(b) of this chapter, the minimum lot width of a lot shall be 50 feet, except for those uses otherwise regulated which shall be subject to the area regulations specified for that use.
- (4) *Height of buildings.* Except as specified in Article XVI, Section 32-56.2(c)(2) of this chapter, the height of the building or structure hereafter erected or altered shall not exceed three stories or 35 feet except for those uses otherwise regulated which shall be subject to the area regulations specified for that use.
- (5) *Building setback lines.* Except as specified in Article XVI, Section 32-56.2(d)(1), (2), (3), and (4) of this chapter, each story or part of the building exclusive of cornices and uncovered steps and uncovered porches, shall be set back from the line of a street in which the building fronts by at least a minimum distance of 15 feet, except that for an apartment building, each story or part of the building, exclusive of cornices, balconies, uncovered steps, and uncovered porches, shall be set back at least:
 - a. 30 feet from the line of all perimeter streets.

- b. 25 feet from the line of all interior public streets.
 - c. 25 feet from all exterior lot lines.
- (6) *Rear yards.* Except as specified in Article XIV, Section 32-56.2(e)(1), (2), and (3) of this chapter, a rear yard of 15 feet shall be provided on every lot, except that for apartments the minimum depth of a rear yard shall be 25 feet.
- (7) *Side yards.* Two side yards shall be provided in every lot as follows:
- a. On an interior lot, the minimum width of side yards shall be seven feet, with a minimum aggregate width of two side yards of 15 feet, except as provided in b. below.
 - b. For apartments, the minimum side yard shall be 25 feet.
 - c. In the case of a building more than three stories in height, each side yard shall be not less than one-third the height of the building.
 - d. On a corner lot, the side yard along the interior side lot line shall have a minimum width as required in a. above, but the width of the side yard along the street line shall be governed by the building setback requirements in this article.
6. The City’s current AC zoning makes distinctions for parking requirements between units that are rented or owned, and in unit type (garden apartment or high rise) as follows:

<u>Type of Use</u>				<u>Standard</u>
“Dwelling, Apartments	Adult	Community	Garden	1 1/2 parking spaces per rental dwelling; and 2 parking spaces per owner-occupied dwelling
Dwelling, Apartments	Adult	Community	High-Rise	1 space per rental dwelling; and 1 ½ spaces per owner-occupied dwelling

While the distinction between unit types should still apply for parking requirements in AC 80/20 because high-rise dwellings traditionally require less parking than garden apartments because residents in the former expect less available parking with high-rise living (for example, Main Towers has 50 parking spaces for 150 units), the mix of ages allowable in AC 80/20 will increase the need for parking spaces in the district beyond what is required in AC, at least by 20%. Considering the owner-occupied or more onerous parking requirements in AC are similar to requirements in the City’s RM district for garden apartment dwelling units, it is logical to apply the owner-occupant AC parking requirements to AC 80/20 parking requirements to address this increased need.

Therefore, amend Section 32-45, Off-Street Parking Requirements, by adding the following to the list of parking requirements for the specified land uses:

<u>Type of Use</u>	<u>Standard</u>
“Dwelling, Adult Community 80/20 Garden Apartment	2 parking spaces per dwelling unit;
Dwelling, Adult Community 80/20 High-Rise Apartments	1 ½ spaces per dwelling unit.”

7. Amend Section 32-56.4, Facilities selling alcoholic beverages for consumption on the premises (which restricts such facilities near and adjacent to residential districts) by adding “AC 80/20” to the rest of the residential districts in subsection (a).
8. Amend Article XXV, Landscape Screening and Treatment, Section 32-87(a)(1), by adding “AC 80/20” to the list of residential districts requiring landscaping to separate multi-family from single family districts.
9. Amend Article XXV, Landscape Screening and Treatment, Section 32-87(e)(1) by adding “AC 80/20” to the list of residential districts requiring landscape to separate “activity areas,” from single family districts.
10. Amend Article XXV, Landscape Screening and Treatment, Section 32-87(f)(1), by adding “AC 80/20” to the list of districts that require landscaping for non-residential uses.

Recommendation

Because the proposed new zoning district with the recommended Zoning Code provisions will not have a negative impact on properties in the City, because the new zoning district will not alter any aspects of properties already zoned AC in the City, and because the zoning district is not in conflict with the Comprehensive Development Plan IV, the Planning and Development Department suggests that **the Planning Commission recommend that City Council:**

A. Amend the Zoning Code as described in the Planning and Development Department Report, and to establish an Adult Community 80/20 district.”

Mr. Bowman: Are there any questions for Maureen from the members of the Commission?

Mr. Edgar Johnson: Maureen, you said that it wouldn’t really have an effect on current AC zoned communities but that those currently zoned AC communities could apply to be rezoned to AC 80/20, right?

Ms. Feeney Roser: Absolutely.

Mr. Johnson: And then, is there a lower age limit on the 80/20?

Ms. Feeney Roser: No. It is 55+ for the 80 percent.

Mr. Johnson: 20% under 55.

Ms. Feeney Roser: Yes

Mr. Johnson: Correct me if I am wrong. An individual buys a property in a 55 and older community because he or she is going to be surrounded by people of their generation and they are looking to get away from noise, and so forth, we rezone, we approve this, people apply for rezoning because they have some vacant units and now those people are now in a community that they didn’t buy into.

Ms. Feeney Roser: Yes, exactly. That is why we did not recommend changing the AC zoning category itself but created a new category, requiring that anyone that wants to rezone would have to come through this Commission and City Council. It is just offering another opportunity for land use development in the City. And, certainly, anyone can apply at any time to rezone their properties. It is up to the Planning Commission and Council to decide whether it is in the best interests of the community.

Ms. Dressel: It sounds to me like a great idea because I think there are a lot of 55 and older communities that are struggling right now. And, I think that from all the people that I am talking to, they would rather have the opportunity, but also have the mixed community because it makes it more vibrant. The fact that you cannot rezone it and it has to go through the process and there will be a public hearing takes care of the people that are residents at the time of any potential rezoning.

Ms. Brill: What would be the target population? If not students, then what would be the target?

Ms. Feeney Roser: As I understand it, there have been adults who wanted to move into adult communities and they weren't 55 years of age or older and could not. And, there is not an option for people who have purchased units to resell them to people who were under that age, limiting their resale value. So, the zoning category will allow 20% of the units to be sold to people who are younger.

Ms. Dressel: So, it could be empty nesters or somebody who wants to downsize.

Mr. Cronin: It could also be families with children, too. As most of you may know, I am involved in real estate sales and when I talk to owners and sellers down at Southridge, which is 100%, they are kind of proud of that, I think, and like it the way it is. I'm not saying they would be a candidate for rezoning but I think they are very happy with the vibrancy they have in that particular community, for example.

Ms. Dressel: That is why this would provide another alternative. So, it is not eliminating anything. It is just providing another option for the community.

Mr. Andy Hegedus: I have a couple of questions. Since it is my first time, I don't know what is really appropriate and what isn't. So, here goes. I was thinking, if we are putting something on the books concerning zoning, we would think about how we are going to enforce this. It talks about that there has to be some restrictions on the deed. So, one of the things that caught me in the very first paragraph was that the Federal law says that the units are occupied by at least one person who is 55 years of age or older. I didn't see that in any of the changes anywhere. So, is that already in our Code for the definition of what it means to be an occupant? I was worried about if you are counting 80%, what counts? It is like, if I am 55 and my kids move back in and their kids move back in, then that still counts as part of the 80. I just didn't know if that definition of what it meant to be occupied is actually in our Code somewhere.

Ms. Feeney Roser: It is not. The definition that we were adding was of the dwelling occupancy restricted to 80% of persons who are 55 years of age or older. That would be per unit. I would have to talk with the City Solicitor about the fact that at least one person or the owner of the unit is 55 years of age or older. There are no exceptions.

Mr. Bowman: Does it mention spouse or caregiver?

Ms. Feeney Roser: It does not in this section. We certainly could add that.

Mr. Hegedus: In the current AC zone is there a definition of what it means to be 55?

Ms. Feeney Roser: Yes. It says that the unit has to be occupied by persons who are 55 years of age or older with the exceptions of a caregiver, a spouse and those kinds of things. We certainly could add those exceptions here as well – a caregiver, a child who is required to provide care and also a spouse. I would assume the definition should remain the same.

Ms. Hegedus: It just struck me a little odd that we would say it is 80/20 and then you would give the City Solicitor whatever the procedure is, that's what we need to do. I don't know if there is precedent around that or we wait for someone to come to the City and say, hey, I think it is at 76%.

Ms. Feeney Roser: The difference in here from what we have in our AC zoning category for documentation is adding the clear policies and procedures on maintaining at least 80%. The other says that appropriate deed restrictions will be put into place limiting the place to persons to 55 years of age or older. I have talked to the City Solicitor about this and the requirement will be memorialized in the subdivision agreement and the idea is to put the onus on the adult community itself to be self-monitoring as the Washington House is with owners and renters there. There is a certain percentage that needs to be maintained there. Every year they send documentation to the City of who lives there and whether they own or rent. At this point, and in the Zoning Code it is kind of hard to get down to specifics on how you would do that, but that would have to be hammered out before they were given Certificates of Occupancy.

Mr. Hegedus: In a normal AC zoning where it is supposed to be 55 and older (just period). Is there a different check and balance or is that still a community self-policing thing if someone is less than 55?

Ms. Feeney Roser: It is community self-policing in that they call us and say they have an issue with somebody who is living there and is under 55. The Code Enforcement Officer is still required to go out and check. They self-police, let us know and then we can document it.

Mr. Hegedus: It seems to me that this would let a developer take a risk. It would be a marketing thing if they think they can build something and sell it where 20% of the community could come in, so, for me, I am just trying to find out if there is a downside to Newark having a development that is like this. If the developer wants to try to do it, that might be harder to do than a 55+, but maybe what Ms. Dressel was saying is right but maybe not.

Ms. Dressel: What about the neighborhood that we changed the zoning for a couple of years ago so that the older house could be changed to less than 55?

Ms. Feeney Roser: Phillips Mill.

Ms. Dressel: Phillips Mill. Because they have a certain percentage now. I thought there were two houses in there that can be less than 55 years of age.

Ms. Feeney Roser: Because the historic structures did not lend themselves to elevators so it was nearly impossible to sell them as 55+. The remainder of it is zoned AC, so it is 100% occupancy other than what was rezoned.

Ms. Dressel: So, it is just that one.

Ms. Feeney Roser: Two structures.

Ms. Dressel: How many dwellings do they have in there?

Ms. Feeney Roser: It is not a lot. 10 or 20 units.

Ms. Dressel: So, that would be 10% of the overall development would qualify. They are still under the 80/20. They might be 90/10 depending on the number of units.

Ms. Feeney Roser: But, those home zoned AC would be at 100%.

Ms. Dressel: The overall development is what we are talking about here.

Ms. Feeney Roser: This is considering an overall development that would be zoned AC 80/20.

Mr. Bowman: Keep in mind that the developer has to disclose all of this up front. If it is an 80/20, they have to disclose that. If it is 100%, they have to tell you that, too. We have used deed restrictions all over the place to control numbers of people in apartment units. In fact, we just did that last month, I believe, where we limited one occupant per bedroom as a deed restriction. So, that type of thing is used everywhere.

Ms. Feeney Roser: We also have the buyers' information program. So, that before people actually purchased a unit, they would come to the Planning and Development Department and be told what the zoning category is and how that is made up.

Mr. Johnson: I have a follow-up to what Andy said. If you have a unit that has one 55 year old and children and grandchildren move in, is that a unit that is counted among the 80 percent when the majority of the people are under 55 or is the unit counted in the 20% when the majority of people are under 55?

Ms. Feeney Roser: The way we envisioned it was that if the owner is 55 years of age or older and the exemptions are the same for the 55+ for a spouse, caregiver or someone who is necessary to live there, that would be considered one of the 80%. If there are children residing that are not necessary for the health or care of the owner, then that would be part of the 20%.

Mr. Johnson: Can they have more than one caregiver?

Ms. Feeney Roser: I imagine – if you need 24 hour care.

Ms. Peggy Brown: This is about enforcement because we already have an issue with enforcement with our current zoning with student rentals that are overcrowded. Even if we are notified, how are we going to actually enforce this?

Ms. Feeney Roser: It depends on the circumstances. If we cannot get into the unit, then we watch it from the outside and see who is coming and going. You count cars. If you can get inside, you can count toothbrushes. They are ways that we do it and yes, it is an onerous task, but it is the nature of the job.

Ms. Brown: It is the getting inside to actually validate the number of people, and we already have an issue within the City with this, so I am wondering, even though the neighbors all say this, if these people are wily about it and careful, I'm wondering if we can actually enforce it.

Ms. Feeney Roser: We enforce it as well as we are enforcing the AC zoning category now. We are doing that with Fountainview and a couple of other places when it is suspected that younger people are living there. It is more of a burden on Code Enforcement.

Ms. Dressel: But, this is not the issue here, is it? We are talking about the option for a builder or developer rather than the enforcement of it.

Ms. Feeney Roser: And there is nothing zoned like this at the moment.

Ms. Brown: I understand what you are saying, but what I am saying is, why pass something if you intend it to be a certain zoning but you can't, in practicality, make sure it is that zoning. That is what I am saying.

Ms. Feeney Roser: We can enforce the Zoning Code as best we can, and that is with any zoning category.

Ms. Brown: I just wonder about our ability. Sometimes we have our hands tied.

Ms. Dressel: But, when you buy in the City – and I don't know how long this has been happening – but you do have to come in to learn about the zoning all around your property. You have to sign documents here. How long has that been in effect?

Ms. Feeney Roser: It has been at least 30 years.

Ms. Dressel: We just did it six years ago and I was impressed because then I knew what was around me and I knew what was available and what could happen and what supposedly couldn't.

Ms. Brown: Do renters have to do that, too.

Ms. Feeney Roser: No, just homebuyers.

Mr. Cronin: When I looked over this, I looked over a number of things. With the 100% AC that we have now, it makes no difference whether we are talking about occupancy or units. With the 80/20, the way it is written, we are talking about occupancy. And, it seems to me every so often that complex might want to do a census or might need to do a census of its residents to see how many occupants are in what category. Perhaps it would be better to say, rather than occupancy, to talk about units – 80% of the units, 20% of the units. Define it in that term.

Ms. Feeney Roser: Yes, my take on it is that we are counting the units because it is the same way we do it in AC.

Mr. Cronin: I understand but AC at 100%, it doesn't make any difference whether there is 100% units or 100% occupants, with the exception of 55+ with a caregiver or spouse. So, you go 80/20, all of a sudden occupancy takes on a new definition, a new potential and you have got maybe some two bedroom units, some three bedroom units, and one bedroom units. What is the intent if we are going to have this? Are we going to allow a census once a year, twice a year to establish the number of occupants in each category? Or are we better off saying units? 80% of the units are to be treated like AC and 20% of the units are to be looked at as non-AC.

Mr. Hegedus: I think that is what struck me when Maureen said it tonight. The very first paragraph, I had missed that the first time I went through it. And that definition of the federal, it is 80% of the units are occupied by at least one person that is 55 years of age. So, I think that cleans up what you are talking about.

Mr. Cronin: No, it does, but when you get over to the language on page 2 under item one, we don't use the terminology of units, we use the terminology of occupants. So, it is not consistent with what the preamble was earlier.

Ms. Feeney Roser: So, what you would recommend is that it is a multi-family garden or high rise apartment dwelling with "units" restricted to 80%.

Mr. Cronin: The language needs to be worked a little bit to say what we intend it to say and what we intend it to mean, not to allow for an unintended definition. When you say occupants, you are looking at the total population and which side of the 80 or 20 they fall on, the way I look at it. And, I think units is what is intended and, again with the AC. . .

Ms. Feeney Roser: I would argue that that is what it is doing because it is actually the definition of dwelling.

Mr. Cronin: But, it doesn't say that. Use the words you want to use to say what you want it to mean is my point.

Ms. Dressel: So, you could say, or high rise apartment dwelling units with occupancy restricted.

Mr. Cronin: I think I would rework it to more clearly say what we intend it to mean rather than use words that we all know what it means but it doesn't really say what we mean. Does anybody have thoughts on that besides me?

Ms. Feeney Roser: So, you want to say, a multi-family garden or high rise apartment development with 80% of units restricted to 55 years of age or older.

Mr. Cronin: With 80% of units restricted to 55 years of age or older and 20% the remainder. Something like that or words to that effect. I don't know if we can wordsmith it right now?

Ms. Dressel: We do, we have to have the word smithing, done if we are going to vote on it.

Mr. Cronin: Unless we table it and come back later.

Mr. Hegedus: My suggestion is just in that part right there with the definition of what it means, that we take the language off the very front. That says at least 80% of the units are occupied by at least one person who is 55 years of age or older.

Ms. Brown: But, we need to emphasize occupied.

Mr. Cronin: Is occupancy the question or is it ownership because if you buy it and I have my father and mother-in-law come live with me, and I'm 45, and my mother and father-in-law come live with me and they are 55 and they die in two years, then what happens? Do you flip over to the 20% category but you are already the owner. What is your recourse? What are we going to do? There are all kinds of scenarios that come into play. Maybe we show ownership of the units.

Ms. Feeney Roser: It is not just ownership.

Mr. Hegedus: It could be rentals, too.

Mr. Cronin: Just the same. It is not just ownership, that is true. You could be the owner and you could rent it. Now a number of complexes have restrictions on how many units can be rented as part of their management of the apartment complex or condominium complex.

Mr. Hegedus: So, if the word is occupied, then it could be either an owner that lives there or a renter that lives there. So, the occupied sort of works.

Mr. Cronin: In theory, yes. You get all kinds of plausible scenarios and I don't know that we are ready enough, though, for what we intend to accomplish based upon the wording that we have. Somebody would read the words and take it literally and say the way it is now – occupants – and there is no question of ownership or tenants. It is not an easy thing to do to get it to be carefully crafted to do exactly what you want it to do, I don't think.

Ms. Feeney Roser: This is exactly what you have now in AC. That is how we do it. We define the definition as a dwelling, adult community apartment. And, the words are nearly identical except where it says, "with occupancy restricted to 80% of persons 55 years of age or older."

Mr. Cronin: I understand, but when you are AC, again, it makes no difference whether you are talking about units or occupancy because 100% is 100%, but when you get away from 100% then you need to make these distinctions and be sure we establish what we intend or want to establish.

Ms. Feeney Roser: Don't you think that what Andy suggested would address your concern when we talk about describing a dwelling unit in an adult community that at least 80% of the units in the development are occupied by at least one person who is 55 years of age or older? Doesn't that do it?

Mr. Cronin: Not necessarily. How about the guy who is 45 and has his mother-in-law with him for two or three years?

Ms. Feeney Roser: We have had that and I think they are trying to work that out. That is in White Chapel Village. He is under 55.

Mr. Cronin: It becomes an issue of something to be dealt with later. We are kicking the can down the road for scenarios that might come up that we don't foresee.

Ms. Feeney Roser: But, that is a condition that applies now to the other zoning category as well.

Mr. Cronin: Except that the other category you have to have at least one person 55 as an owner.

Ms. Feeney Roser: No, that allows rentals as well.

Mr. Cronin: Not in places like Southridge, I don't believe it does. I haven't seen that.

Ms. Feeney Roser: That is the choice of the development, but it certainly is possible to have rentals in that zoning category. You are talking about specific developments as opposed to an overall zoning district.

Mr. Cronin: I know I am, but you are saying that in AC as we have it now, you can have rentals as long as the occupants meet the 55+ definition.

Mr. Hegedus: To me, there is a line between what we put in policy or Code and the details underneath it and I think yesterday when Maureen was giving me my orientation we talked about that a little bit. And, the language that is here is the specific procedure for that specific complex to maintain their 80/20 split has got to be written down, given to the City Solicitor and put into the deed restrictions. So, different places may handle it differently and I'm okay with that. I have seen the City Solicitor once so I'm assuming he is a good guy and he would figure out what an appropriate procedure would be in the different cases that may come. So, for me, personally, if we can just clean up the definition a little bit so that it is clear about what the 80/20 means, I'm okay with procedure and the Solicitor working it out, what about this case, how do you handle that, and that sort of thing. That's me.

Mr. Johnson: I like what Bob said earlier. He said that 80% of the units are AC and 20% are not. I would like to see that in the definition. 80% comply with AC and 20% are other.

Ms. Dressel: Then, I think you run into the concern about, this particular dwelling was part of the 80% and now you are going to sell it or rent it to somebody else and so, is it the dwelling unit or is it the overall number of units because if you have 30 units and 20% of them are occupied by people who are less than 55, say they all live on the first floor, now on the sixth floor, all of those people are moving and you are going to have the under 55 moving up there. So, are you going by unit or are you going by overall? Whereas, I think, when you have the 80//20 rule, it is more generalized and not specific to a unit.

Ms. Feeney Roser: I agree but, I think that would have to be spelled out, as Andy said, in whatever went into the subdivision agreement whether or not the developer was doing it by unit.

Ms. Dressel: I would hope, but if you change it to 80% of these have to be AC and then 20% is something else.

Mr. Cronin: Which could also be AC if that is a choice of the occupants or owners.

Ms. Dressel: But, then you wouldn't choose the AC 80//20, you would choose the AC.

Mr. Cronin: If a complex is built under AC 80/20 and your earlier example was somebody that starts out in the 20 and becomes over 55 in the normal course of time, do they have to sell their unit and go to another unit that is tagged with 80%. They wouldn't because you could have 80% or more, you just couldn't have 20% or more in the other category.

Ms. Feeney Roser: Right, at least 80%. It could be 85%, it could be 90%.

Mr. Cronin: Right, it could because aging is kind of natural.

Ms. Brown: Do we have in here some place that we have a maximum of 20%?

Ms. Feeney Roser: It says at least 80%.

Ms. Brill: Would this be confusing when you are selling your unit and you have an offer from a young family and you are getting close to that 20% so you don't know if you can really accept that offer. How would that be regulated? Let's say there are ten units going up for sale at the same time and you don't know how they are selling.

Ms. Feeney Roser: That would have to be maintained by the development itself whether it is a homeowners association of some sort. They would have to keep records and continually document the mix.

Mr. Hegedus: That would certainly be one of the downsides to a developer wanting to pick this category or a person wanting to move into it.

Mr. Cronin: When the developer builds it out, they turn the management over to a condominium association or apartment association. The developer has usually no further involvement once it is a finished build-out.

Ms. Feeney Roser: That is why it is deed restricted and the documents are in place so that the homeowners association would be able to maintain.

Ms. Brown: So, if you had your max of 20% and someone who was over 55 wanted to sell their unit, they would not be able to sell their unit to someone under 55 in order to maintain that number.

Ms. Feeney Roser: Yes.

Mr. Johnson: Could they sell it to someone under 55 and rent it to people over 55?

Ms. Feeney Roser: The details would have to be spelled out in the individual agreement. I don't think we could say here. It is restricted to units and the occupancy.

Mr. Bowman: One thing for sure. We are going to drive ourselves crazy if we try to think of all the various contingencies and ramifications of this. So, let's give the members of the audience a chance to comment. I have no written requests to comment, but if anybody in the audience chooses to come up to the mic and speak one way or the other, please do so.

Mr. Chris Locke: 604 Cambridge Drive, Newark, Delaware. Just a point of clarification on the ownership usage. Really, the AC 80, my understanding listening to Council when this came up was to kind of match what the federal law is which is 80/20 as well. The federal law does state that if you are 55 and buy as a 55, you sell it as a 55. If you buy as a non 55 then you can sell it as a non-55 unit. If a 55 owner wants to sell to a non-55 at some point, they would have to petition the condo association or the homeowners association and get their permission if that is available for them. Also, as Maureen pointed out, any buyer would have to get the City affidavit before they can go to closing, so they would clearly have that information as well. In the sense of renting I think a couple of people raised the issue about students. Most of the AC that has been approved under the old AC and any under the new AC 80 would probably have the restriction of only two individuals could be renters (defined as two nonfamily members). So, that does

address the student housing issue in a lot of these communities already. And, that is a deed restriction as part of the subdivision agreement. I just wanted to point that out.

Ms. Leslie Purcell: 115 Old Oak Road. I had a question. I heard the word high rise a couple of times. To some of us who grew up here and like Newark in its lower more calm relaxed form, it raises a question. What is your definition of a high rise. I don't know if it is going to be part of the general plan update as well but that was my concern.

Ms. Feeney Roser: High-rises are allowed in AC now and in the proposed AC 80/20, with a special use permit. So, they are not allowed as a matter of right. It is a conditional use. There are area requirements and height restrictions on that. Right now it would say not exceeding seven stories or 80 feet. The maximum height limit may not exceed ten stories or 110 feet under special conditions. So, the highest you could go would be ten stories and that was if you met certain requirements like setting back the building and 60 percent of the floor space being used for mechanical equipment and lobby and gallery. So, ten stories would be the maximum if you meet the special conditions. If you didn't meet those, the maximum height would be seven stories. That is also with a special use permit, so it is not a matter of right. Council would have the opportunity to hear community comment on that, and the character of the neighborhood in which it is considered.

Mr. Bowman: We will bring it back to the table.

Mr. Cronin: A number of places in here we talk about 80/20 apartment dwellings. I assume we want that to read apartment/condos because we are talking about both types of ownership, are we not?

Ms. Feeney Roser: It doesn't refer to ownership. It's the type of dwelling it is. It is an apartment type dwelling.

Mr. Cronin: If that's what it is, okay, but it didn't read that way to me and that is why I asked the question because if I am building an apartment building I think I am A-okay; if I am building a condominium then I might need to get some sort of clarification of whether we can do it under the zoning or not.

Ms. Feeney Roser: It is the type of unit it is.

Mr. Cronin: Then maybe we should say apartment type buildings?

Ms. Feeney Roser: I think throughout the Code we refer to apartment dwelling units that way. It is not just in this category.

Mr. Cronin: Again, I am a rookie. I don't know all these things that well.

Mr. Bowman: We are to the point where a motion is in order – a couple of suggestions as to the way you might go. We can vote on the proposal as it stands; we can also, if the amendments would not be too extensive, amend the language as has been talked about and then go from there; or, it can be tabled. I will advise you that a motion to table once seconded is not debatable. What is your pleasure?

Mr. Cronin: There is one more thing as I consider a motion. Again, this is, perhaps, because I am a rookie, but I'm like a picture puzzle when I see these quoted insertions into the Code. I'm seeing excerpts of verbiage but I don't clearly see the whole picture. So, I would be more comfortable myself, being a rookie, if I saw above and below some of these Code portions would make me more clearly understand how it all fits together.

Ms. Feeney Roser: I need more clarification on what you need to answer you. Do you mean that you want to see this, for example, definition within the context of other definitions of the Code?

Mr. Cronin: Perhaps, yes. For example, on page 2 in item 2, it has the phrase in there after "housekeeping units" having common open spaces. I assume it is parallel

construction for the same insert under item #3, but it goes from individual housekeeping units and doesn't say, "having common open spaces." The one in item #2 says, Article IV Section 32-11. The one in #3 says, Article IV Section 32-12. I can't tell if that is supposed to be the same number or maybe a typo. I don't know how to track it.

Ms. Feeney Roser: These are taken directly out of the Code, and in those two cases we are adding sections that would cover this category 32-13.2. Elizabeth can correct me if I am wrong, but we just take it directly from as it reads in the Code now. We are not recreating it.

Mr. Cronin: I understand what you are saying, but do you see what I mean? The last line of the quoted part for item #2 says, Article IV Section 32-11, "as set forth in that article. . ."

Ms. Feeney Roser: That is directly from the Code.

Mr. Cronin: Now read the same thing in item #3, Article IV Section 32-12. Is that supposed to be 11 are they both supposed to say the same thing or are they meant to be different? I can't tell because it is out of context in a sense. It is like pieces of a puzzle not the whole puzzle.

Ms. Feeney Roser: These are referring to sections of the Code where the definition would apply. I don't have the Code with me. If they are quoted, it is taken directly from the Code and we have added the new section to it.

Mr. Cronin: Without the possibility of typos or anything like that?

Ms. Feeney Roser: It is blocked and copied electronically from the Code and inserted into the report.

Mr. Cronin: Is it? Okay.

Ms. Feeney Roser: If there is a typo, it is in the Code itself. Anything with quotation marks has not been retyped.

Mr. Cronin: Okay, thank you. I didn't know that. Maybe I should have known, but that is the Rookie status.

Mr. Bowman: Any other comments or questions?

Mr. Hegedus: I am, again, the Rookie at this. So, I don't know what is better for us as a City or for developers to just stick with a modified definition that simply matches what it is in the existing AC to talk about this issue that we have been beating up for awhile or whether we go grab this federal language that is on the front and put it in. I don't know which one would work better. I'm not sure if Maureen has an opinion on that one way or the other. So, my other question is, is there any urgency at all to do this? Are there other developers that want to move on this immediately, have people been asking for it, was it just a suggestion from Council?

Ms. Feeney Roser: I know that the Mayor asked for it and he asked for it to be on this agenda, but if you aren't comfortable with it, there is no urgency. I do think we could amend the definition to make the Commission more comfortable, if that is the only thing you are concerned about. But, if you decide to table, I would like direction from you about what it is that you need to reconsider it so that we can make sure that we get it right for you next time. But, I think that because it is done by dwelling unit definition that we could change that definition to say a multi-family garden or high-rise apartment dwelling in a development with units restricted to 80% occupancy to at least one person of 55 years of age or older. And, that would match the federal regulations and it would also limit it to units and make it clear that we are talking about the units instead of occupancy. I know I have heard those two concerns tonight. That, certainly, you can amend at the table if you are interested.

Mr. Hegedus: With your knowledge of what is in AC, they play okay together?

Ms. Feeney Roser: Yes, they should. But, it seems clear that the issue is its units that this Commission is concerned about and not occupancy, and that we are at 80% of at least one person being 55+ as opposed to the way it is written now.

Ms. Dressel: Can I make a recommendation for an amendment and then a proposal?

Mr. Bowman: Let me make one comment first if I may and then we will go back to you. It seems to me as a general comment that the closer we would be to federal language, the cleaner our skirts would be in terms of projecting our proverbial rear ends should an issue arise. That is just one comment from the Chair. If that keeps it clean, that might be a good way to go.

Ms. Dressel: That was my intent. Do I make the amendment first or do I make the proposal first?

Mr. Bowman: You can make the motion that we accept the recommendation with the change to the definition, would be the cleanest way to do it and then we will go from there.

MOTION BY DRESSEL, SECONDED BY HEGEDUS THAT THE PLANNING COMMISSION MAKES THE FOLLOWING RECOMMENDATIONS TO CITY COUNCIL:

A. TO AMEND THE ZONING CODE AS DESCRIBED IN THE PLANNING AND DEVELOPMENT DEPARTMENT REPORT, AND TO ESTABLISH AN ADULT COMMUNITY 80/20 DISTRICT; AND,

B. AMEND SECTION 32-4(A) BY ADDING A NEW SUBSECTION (36.2) TO READ:

“DWELLING, ADULT COMMUNITY APARTMENT 80/20: A MULTI-FAMILY GARDEN OR HIGH-RISE APARTMENT DWELLING IN A DEVELOPMENT IN WHICH AT LEAST 80% OF ALL UNITS ARE OCCUPIED BY AT LEAST ONE PERSON 55 YEARS OF AGE OR OLDER.”

VOTE: 7-0

AYE: BOWMAN, BRILL, BROWN, CRONIN, DRESSEL, HEGEDUS, JOHNSON

NAY: NONE

MOTION PASSED UNANIMOUSLY

3. DISCUSSION REGARDING THE CITY’S “PLAN FOR PLANNING” REGARDING COMPREHENSIVE DEVELOPMENT PLAN V.

Development Supervisor Mike Fortner presented a PowerPoint presentation on the City’s “Plan for Planning” regarding the update of the Comprehensive Development Plan. Mr. Fortner’s presentation follows:

The overview of “Plan for Planning” states the purpose of the planning process, establishes public participation process, identifies stakeholders, and develops a general timeline. As former Planning Director Roy Lopata said, the Comprehensive Development Plan is not a straight jacket, it is a guide and sets a path forward.

The purpose of the “Plan” is a requirement under Delaware State law (Title 22, Section 702). This is the fifth update of the Comp Plan since we started our first long-range plan in 1969. The plan will integrate land use annexation, redevelopment, economic development, housing, transportation, infrastructure, natural and cultural resources and also our plan for intergovernmental relations. It gives us the big picture of

the integration of land use, annexation, redevelopment, economic development, housing, transportation and infrastructure, natural and cultural resources and also our plan for intergovernmental relations. It shows how all these pieces fit together.

The “Plan” coordinates local decision making, gives guidance to land owners and developers. It establishes a sound basis and facts for decisions so when you are making a new development, it gives you a basis of how to make your ruling. It involves a broad array of interest in the discussion for long-range future, and it builds an informed constituency.

The purpose of the public participation is to address the ultimate questions, “What is the vision of residents of Newark for their community?” Through the public participation process, we want to build awareness that the Comp Plan update is happening, that it is important, and that you should participate. We want to provide the public with opportunities and encouragement to participate.

The goal is to ensure that planning decisions are open to the public comment, produce better planning decisions, add credibility to the decision-making process, get information out to the public and strengthen the relationship between the decision makers such as the Planning Commission and the citizens, and develop a shared vision for the future of our community.

Public participation opportunities will be open houses, interactive exhibits so that the public can help set the themes and priorities that will be captured in the plan and address through the Comprehensive Plan. There will be a website or a link to the City website which will have information on the Plan. As part of the open house, there will be surveys, civic and community presentations to try to reach out to the community and encourage them to become involved and give an update on what is happening with the update. There will be community displays at City Hall or the Public Library.

The Comprehensive Planning Technical Advisory Committee will work closely with organizations like WILMAPCO, the Office of State Planning, the County and State offices like DNREC or DEDO on all aspects of our plan making sure they are updated on and reviewing what we are doing and what our thoughts are and what we are considering, and they can provide comments. Any time we meet on an element we will have appropriate representatives from different agencies at the meeting.

We will do news releases and mass media visioning and planning workshops and public hearings and meetings where there will be public opportunity to participate and become informed.

In the Plan for Planning there is a rough analysis of the stakeholders that we are going to try to reach out to. Stakeholders are defined as any group, individual, organization or agency that has a vested interest, present or future, in the outcomes of the planning process. There are four categories of stakeholders:

- Sectors of Society; residents, landowners, renters, minorities, young people, business owners, visitors to our town.
- Interest Groups; Downtown Newark Partnership, Chamber of Commerce, civic and social groups (Rotary Club, etc.), neighborhood associations, churches, industry, environmental groups, planning groups (Newark Bicycle Committee, etc., real estate professionals.
- Agencies: Planning Commission, City Staff, State and Federal agencies, school districts, University of Delaware leaderships, Senior Center and Public Housing Authorities.
- Elected Officials: Mayor and Council, State Representatives, Senators, and other elected officials.

Plan for Planning Schedule includes:

- A kick-off at Newark Day and Community Day (exhibits to inform people about the plan).

- Today we are showing the Plan for Planning for adoption.
- October 23rd there will be a public open house with exhibits and interactive opportunities. We will invite the public to come and start setting the priorities and themes for our Comprehensive Plan.
- Series of neighborhood meetings. In our Comprehensive Plan we have ten or eleven planning districts. We have divided them up into neighborhoods. We will have meetings in either a community building in the district or at City Hall. There will be meetings for the northern, central and the southern regions (or districts). We will invite the stakeholders in those areas to the meeting. We will have maps of the different types of land uses and have them participate in the process of the neighborhood focus.
- December – May there will be a series of workshops held for discussion of topics and Plan development. There will be several meetings held. Then after the workshops, a Planning Commission public hearing will be held during the summer for purposes of a recommendation for the Comprehensive Plan to Council.
- The final step would be a Council public hearing for the adoption of the Comprehensive. Plan.

Ms. Feeney Roser: The final Comprehensive Plan due in October 2013, correct?

Mr. Fortner: It has to be updated every five years and that would be in October. I think the State would be understanding if we had to work through things and it got to be November or December as long as they knew we were working on it. Mr. Fortner introduced Herb Inden, Office of State Planning and Martin Wollaston, University Institute of Public Administration.

Mr. Bowman: Do any Planning Commissioners have questions for Mike?

Ms. Brown: How did you come up with the different planning sections and why do you have the north, central and southern regions?

Mr. Fortner: The Planning Sections were established probably about three plans ago at least, so they basically stayed as a constant. We haven't changed them. They have kind of manmade barriers to kind of separate them – either a major road or a railroad. It is kind of like a census tract. When I wanted to do the neighborhood meeting, instead of doing a neighborhood meeting for each planning Section we would combine the sections into three regions. It seemed like they had the same proportion of residents.

Ms. Brown: Because I look at these and I think some of these areas have changed greatly since the 1980s and circles from the center of the City, to me, might be a better way. There are different issues in different areas. They seem to me to radiate out instead of going in a pie shape. Does that make sense.

Mr. Fortner: Yes, you are saying that center city has different issues and as you go out you have different issues.

Ms. Brown: You have a different makeup of population.

Mr. Fortner: Your way makes sense, too. There are a lot of ways to do it. I tried to do it this way because we already have those boundaries. That way the individuals get a snapshot from the previous plan and look at the new plan and see where we have been with this planning district and see where they want to go with it. They create some natural boundaries which I would have trouble defining the center and building out. And, you get a variety of mixes that way. For example, one district is just the University. It used to be the Chrysler plant and a little bit of residential housing so I combined those because I'm mostly dealing with residents, but also invite University or other stakeholders to that. But, there is more than one way to do it. That one seemed the most systematic to me where we already had well defined boundaries and to stay with that.

Ms. Brown: Luke Chapman is now the district's Council person. Ezra used to send out a newsletter twice a month. Could the information go into what the Council people send out to their residents.

Mr. Fortner: Most definitely. If Councilmen have their own newsletter, then I would certainly like to make sure they have information they could send out. I'm also having my own "Comp Plan" newsletter for which I am collecting emails. You will be on the email list, Council will be on the email list. Any residents who are interested in receiving a monthly email that will keep them up-to-date on what is happening in the process and how they can participate can be put on the list. This will keep them up-to-date on what is happening in the process and how they can participate. I would like to do this once a month. For example, at Community Day people were signing up their emails and Council could take this information and put in their own newsletters.

Ms. Brown: I think using the Council members who already have an email list would be an excellent way to do this because there are people viewed who might be interested in that. For instance, at Community Day, I was working in another booth. I did not even see the City booth.

Mr. Fortner: Going through the Councilmen that already have email lists is a fantastic idea.

Ms. Feeney Roser: We should also have it on the web and on Channel 22.

Mr. Hegedus: I think you did a great job with the presentation and I particularly like the part about the vision coming from the community, that's the key thing. One of the problems I have with the existing plan is that there really is no vision for our city in here. The closest you get is on the bottom of page 84 where it talks about our community land use development goals. So, for me, the vision comes first. If we can get the citizens to create a vision, then we can have working meetings and then meetings around the details underneath the vision. What I was hoping was that we could jiggle with your plan a little bit so that the community outreach piece starts with data gathering. So, whether you go to sectors to gather data, whether people come here to gather data, we capture all this information, but then instead of just simply inviting like we are doing now with emails and such, we deliberately go out and try to find stakeholders that are willing to participate with us, we bring the data that you have collected from these great meetings into a room and have the stakeholders there with maybe some facilitation from our friends at the University or whomever and we get, out of four hours, they use their wisdom, talk among themselves, come up with a vision and then bring that back here. We can be in that stakeholder room, but then come back here and say, yes, that is pretty good, then we will know that we are on the right track to build a good plan. The last thing I want is to go through all this work and then have a plan show up in June and not be satisfied. Is something like that possible?

Ms. Feeney Roser: So, you are looking for a stakeholders meeting to define the vision after we have done the neighborhood meetings, so that vision can be brought to this body as something you can accept to continue with?

Mr. Hegedus: I don't know if it has to be formally approved by us or whether it is a presentation to be commented on, but it would be good to do some interim step here to make sure that it seems that everything is on the right path.

Ms. Feeney Roser: So, it is a reworking of the first one then that says, Planning Commission workshops, Community Profile/Vision to nail down the vision and then you would start with the community profile at a later time. Is that what I am hearing?

Mr. Fortner: My intent is to clearly define the vision for Newark and the kind of themes that we are interested in pursuing with this plan to make up our vision. And, then the rest of the elements, of course, such as housing, infrastructure and how do they fit into the vision. I am hoping for a community profile meeting with a lot of data collection and putting together our demographics and what we base our growth on and other kinds of factors starting to establish visions for the January timeframe after we have gone through

a lot of public meetings and hearing a lot of themes. If we don't have a true vision by that time, we will have a good idea of what the vision is.

Ms. Dressel: So, your neighborhood meetings would be where you are gathering all that information.

Mr. Fortner: It is a gathering of information. I call it a gathering of themes, different types of participatory things. The public comes and they see this as a problem and see this as an opportunity – kind of like a S.W.O.T. analysis. These are what I think are the strengths of our community, these are our weaknesses, and through that type of process, we start to hear themes. For example, they want a vibrant downtown that everybody wants to go to that is for students but also for families. That is a theme. We want to develop our downtown as our cultural center. We may hear a theme that we want a pedestrian/bicycle friendly community, nice recreation areas, people may want to preserve nature. When we hear these themes it will help us develop our vision.

Ms. Dressel: Because what has happened in the past – and it looks to me like you are doing the same thing – the Planning Commission met in workshop format, which was upstairs, and we hashed out each section after having heard from the community. In the past, I think we did it informally with the people that we saw. I think this is taking it a step further, which is nice, to get more involvement. I heard that everybody that saw this at Community Day was pleased by what they saw. So, I think we are on the right track.

Mr. Fortner: On those workshops, how would you like to participate in terms how you would like it structured? Would you like to use the conference room where we sit at the table with written material and hash it out or would you want to do it more public hearing style where we give a presentation on different elements and then we hear the public?

Ms. Dressel: I liked having the information in advance so that I was able to go through and read it and think about it, along with the information that we had in advance from previous meetings and then be able to work out the wording or at least the high level wording because after that Roy would take it back and he did a lot of word smithing with it.

Mr. Fortner: Yes, there would be that phase before we actually get to the nitty gritty of it.

Ms. Dressel: Each time we met, the next time he came back with the revised section so that we could look at that and say okay now we can move forward or there was another question that we wanted to have submitted. But, I thought that it felt that it was a very inclusive process to the people who attended. We did not have many people who did attend. I don't know that that many community members are going to come to the workshops, unless they are specifically interested in planning.

Ms. Feeney Roser: I'm not sure this is going to address your concerns, certainly you can say, for that first planning workshop when we are talking about vision, perhaps we should invite stakeholders specifically to come and talk with us as we try to hash that out.

Mr. Hegedus: Yes, I think that would help me and, personally, I would rather be working with it than have people present. Like Angela said, I would like the materials in advance and think about them, and work together collaboratively and figure it out. My fear is that you were working a different booth on Community Day and Angela didn't make it, and that there is going to be some really important voice that you don't have input from; So, if we can structure it so that there are invitations to the voices we know we need to hear from. We need to hear from the University, we need to hear from probably some student representatives somewhere since they make up a whole lot of the community, we need to hear from some of the minority populations that might not come out. So, we need to invite some key people to come into the room with us to work on the vision. Once we get that sort of nailed, then going through the rest of the stuff will kind of flow.

Mr. Fortner: When I talk about the workshops, I am envisioning probably an extra meeting a month at least. You would have a workshop and then you would have the next Planning Commission meeting where I would try to collaborate all that happened in the

workshop and give a presentation and you would have more feedback. There is a two part kind of thing. Are you envisioning a separate meeting like a workshop?

Ms. Dressel: I was envisioning a second meeting as you are describing it, but I wouldn't envision that you would then turn around and make another presentation.

Mr. Fortner: I would accumulate the information from the meeting on an element of the Plan, whichever topic we were discussing. I wouldn't have to give a PowerPoint presentation but I could give it to you and you would have to give me comments or feedback on it.

Ms. Dressel: I think that would be fine if you would give us a written document, but I don't think you need to make a formal presentation.

Mr. Fortner: There is public information to it, too. For the people in the public, I could give somewhat of an overview of it. Maybe I could make it shorter. People may not read the plan but I could describe it. That is really the reason I am doing this is the people.

Ms. Brown: My concern is, and this is the hardest part of the whole thing, getting community input. The monthly email newsletters from Council is a way, but also reaching out to, for instance, the Senior Center, reaching out to churches, Friendship House that meets in Newark Methodist Church or the Empowerment Center, local businesses, not just necessarily people who own properties here, but people who come to Newark. That is a lot of work for you all. I agree with him about the vision. We need to have a clear set of ideas of where we want to go from all parts of the City. I think in the past, we haven't quite gotten there. You have to pull them in, you have to give them something to be interested in, but you have to get them in if you really want to get a true idea of what the people who work and live here in Newark want. I don't know how you are going to do it.

Mr. Fortner: Exactly, it is our intent to go out to different civic organizations. The Senior Center is certainly a primary target. I think Andy's idea of issuing invitations to specific individuals and groups and invite them personally, that would have a larger success rate than just a flyer that is out there or a media release.

Ms. Brown: What about Council people asking certain people in their district to come and work with this? It is hard to get people involved, but I think if we want a true idea of what people want, we have got to do it, and it is a lot of work.

Mr. Fortner: That is a good idea.

Mr. Hegedus: One more clarification. One of the reasons for me to do this is because I am trying to take some burden off of you. I don't want you to have to sit in your office with all this data you have collected and you come up with the vision that you then present. I'd rather it be people in a room working together that represent the community to come up with the vision rather than it be you. I think you should be in the room working with everyone because you have a stake in it, too, but I don't think you to have to feel like you are the carrier of the vision for the City of Newark.

Ms. Feeney Roser: May I ask a question. In the schedule for October 23rd, at one point we talked about it being a more informal session and going for a longer period of time.

Mr. Fortner: When I originally wrote the Plan for Planning, I was picturing something more presentation based and maybe a S.W.O.T. analysis or a visioning, but I am picturing now more a 4-7 p.m. type of open house where people come in at their own convenience and stay for however long they want, look at the exhibits, participate in different types interactive things, for example, a bulletin board with different dots where they show what is important to them, there would be a survey in other kinds of ways they could participate, and they would stay as long as they want, talk as long as they want. They could come at 4 or at 6:30 or whatever, we would be there.

Ms. Feeney Roser: Does 4 to 7 p.m. make sense to you?

Mr. Fortner: Not that you would be there the whole time. I want you all to come and stay at your convenience and talk and interact with the public.

Ms. Feeney Roser: But, there would be this open house opportunity for people to float in and out is the idea.

Mr. Fortner: That's right. That is essentially what it is. They would come at their convenience. I think that would work better than some of the things I have done in the past where you come at seven o'clock and you do a presentation. You get some people to come to that. Some people aren't as comfortable with that. This is a way that everyone can participate.

Ms. Dressel: The Planning Commission Workshop 1 says December and, so, I am presuming that since the Neighborhood South meeting is December 11th, this one would be after that.

Mr. Fortner: It is going to be into January.

Ms. Feeney Roser: We may find that we need a couple meetings a month and in some cases in another we can combine them, perhaps. When we get closer, we can probably tell that.

Ms. Feeney Roser: Mike, you want this adopted, right? You want the Commission's endorsement.

Mr. Bowman: The Chair will entertain a motion to accept the Plan for Planning.

Mr. Hegedus: Not knowing the procedures, I was going to ask if we could amend it to put the visioning piece in?

Mr. Fortner: Yes.

MOTION BY HEGEDUS, SECONDED BY DRESSEL, THAT THE PLANNING COMMISSION ENDORSE THE "PLAN FOR PLANNING" PROCESS FOR THE UPDATE OF NEWARK'S COMPREHENSIVE DEVELOPMENT PLAN; AND, THAT THE STAKEHOLDERS WOULD HELP TO DECIDE THE VISION FOR THE PLAN SO THAT A FINAL VERSION CAN BE FORWARDED TO COUNCIL FOR APPROVAL.

VOTE: 7-0

AYE: BOWMAN, BRILL, BROWN, CRONIN, DRESSEL, HEGEDUS, JOHNSON

NAY: NONE

MOTION PASSED UNANIMOUSLY

As there was no further business, the Planning Commission meeting adjourned at 8:30 p.m.

Respectfully Submitted,

Elizabeth Dowell
Secretary, Planning Commission